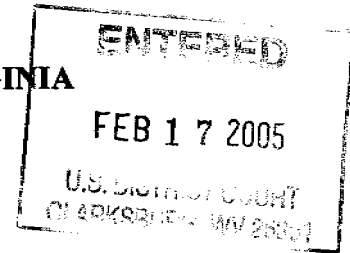


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA



UNITED STATES OF AMERICA,

Plaintiff,

vs.

CRIMINAL ACTION NO. 1:05CR04

DANIEL TESTERMAN,

Defendant.

**ORDER CONTINUING HEARING ON PRE-TRIAL MOTIONS AND  
GRANTING UNITED STATES' MOTION FOR EXTENSION OF TIME TO RESPOND**

On February 7, 2005, and in accordance with the Initial Scheduling Order entered by this Court on January 21, 2005 [Docket Entry 4], Defendant, through his counsel, George Cosenza, filed his Motion to Suppress [Docket Entry 5]. On February 11, 2005, Defendant filed a Motion to Continue [Docket Entry 9] said Motion to Suppress because of the unavailability of counsel. On February 11, 2005, the United States Attorney, through his Assistant United States Attorney, Sherry Muncy, filed Government's Motion for Extension of Time (to file response) and Motion to Continue (hearing on pre-trial motions) [Docket Entry 11]. The Assistant United States Attorney's request for an extension of time was based on the unavailability of Ritchie County Sheriff's Deputy Michael Kelly to assist in the preparation of the response, and the request for a continuance of the hearing on the pre-trial motions was due to the unavailability of the Assistant United States Attorney.

After review and consideration of same and after consultation with the attorneys in this case,<sup>1</sup> this Court does grant Defendant's Motion to Continue [Docket Entry 9] and the Government's

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<sup>1</sup>During consultation with Defendant's counsel as to his availability, this Court's assistant was informed that Mr. Consenza's travel plans had altered and that he was now available for the February 23, 2005, hearing on pre-trial motions. He did not voice any objection to the Government's motion to continue during that consultation.

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Motion for Extension of Time and Motion to Continue [Docket Entry 11]. The hearing on Defendant's Motion to Suppress [Docket Entry 5] is continued from February 23, 2005, at 11:00 a.m., to Monday, February 28, 2005, at 9:00 a.m., at the Clarksburg point of holding court. The Assistant United States Attorney shall file her response to the Defendant's Motion to Suppress on or before February 22, 2005.

**IT IS SO ORDERED.**

The United States District Clerk for the Northern District of West Virginia is directed to provide a copy of this order to counsel of record, the Federal Probation Officer assigned to this case, and to the U.S. Marshal.

DATED: February 16, 2005

  
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JOHN S. KAULL  
UNITED STATES MAGISTRATE JUDGE